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Federal Communications Commission
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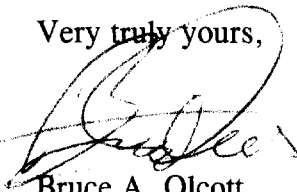
Mr. William F. Caton
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: *Ex parte* Presentation in IB Docket No. 96-261

Dear Mr. Caton:

On February 28, 1997, copies of the enclosed summaries of comments in the above-captioned proceeding were delivered to Jackie Chorney, Senior Legal Advisor to Chairman Reed Hundt, Rudolfo Baca, Senior Legal Advisor to Commission Rachelle Chong, Jane Mago, Senior Legal Advisor to Commissioner Susan Ness, James Casserly, Senior Legal Advisor to Commissioner James Quello and to Kathryn O'Brien, International Bureau. On February 25, 1997 and February 28, 1997, Donald Gips, Chief, International Bureau, FCC, received copies of the same.

Very truly yours,


Bruce A. Olcott

cc: Jackie Chorney
Rudolfo Baca
Jane Mago
James Casserly
Kathryn O'Brien
Donald Gips

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SUMMARIES OF COMMENTS

IN

IB DOCKET NO. 96-261

**INTERNATIONAL SETTLEMENT RATES
FCC's BENCHMARK PROCEEDING**

Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

February 10, 1997

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FCC's Benchmark Proceeding
IB Docket No. 96-261

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ABS-CBN Telecom, North America, Inc.

The Rationale for Adopting Benchmarks

- ABS-CBN supports the FCC's desire to establish settlement rates more closely resembling the level that would be established in a competitive market. (1)

The Use of Unilateral Action

- ABS-CBN prefers regulatory forbearance not new rules. (2)
- The Commission should first rely on commercial negotiations between carriers, not regulation, to achieve its goals. (2)
- The NPRM would greatly expand upon the International Settlement Policy (ISP) for many routes on which ISP should be relaxed. (2)
- The costly administrative burden is not justified for routes with non-dominant carriers on both ends. (2)

Benchmark Methodology

- Uses the Philippines as an example of the FCC's benchmark methodology. (3)
- The benchmark methodology is unreliable as a guide to the termination costs, especially for new facilities - based carriers which face high domestic interconnection charges to terminate traffic on the incumbent carrier's network. (4)
- TCP wrongly assumes the cost of the national extension component. (4)
- In competitive markets, where there are multiple carriers and traffic may transit one or more networks prior to termination, the national extension component can not be estimated based on the retail tariffs charged. (4) Philippines is used as an example of cost exceeding the FCC's TCP. (4-5)
- Adopting a benchmark rate below cost would drive competing carriers out of the markets. (5)
- FCC's TCP methodology can not be independently verified because they are impermissibly based upon private, non-record data supplied by AT&T. (5)
- Because data on call termination was not retained and publicly available, interested parties may not examine the data to determine the accuracy of the FCC's TCP calculations. (6)

- ABS-CBN requests the FCC to require AT&T to place in the record the U.S. international call distribution data supplied by the Bureau. (8)

Enforcement of Benchmarks by the Commission

- Benchmarks should be deferred for the Philippines until competitive telecommunications carriers are more firmly established. (8)
- Competition is developing in the Philippines. (9) Funding for new facilities is dependent on settlement revenue. (9) International settlement rates will fall in response to the newly developing Competition. (9)

ACC CORP.

Commission's Authority Under anticipated WTO Agreement

- A successful WTO Agreement would provide U.S. carriers such as ACC with substantial new and enhanced opportunities to compete abroad. (2)
- ACC supports the FCC's benchmark proposal to the extent that it will encourage the successful conclusion of the WTO talks. (3)

Applying Benchmarks to Prevent Anticompetitive Behavior

- The FCC's benchmark proposal enhances competition by allowing carriers to engage in ISR without having to demonstrate that foreign markets afford U.S. carriers equivalent resale opportunities. (3)
- ACC generally supports the FCC's conclusions and urges the Commission to adopt a policy which permits carriers to engage in ISR on any route where market distortion can be prevented absent the equivalency policy. (4)
- The FCC's policy should replace, not supplement, the equivalency policy. (4)
- ISR is in the public interest in that it creates downward pressure on telecommunications prices and should be permitted in all markets immediately. (4)
- Although ACC believes that a better solution to the issue of one-way bypass by foreign carriers is to apply the FCC's flexibility policy, ACC supports the FCC's tentative proposal of conditioning a carrier's provision of ISR on accounting rates on the route falling within the benchmarks as a step in the direction of more liberal regulation of ISR. (6-7)

AT&T CORPORATION

The Rationale for Adopting Benchmarks

- Compliance with the 1992 benchmarks has been inadequate. (5-6)
- Technological advances have reduced the cost of terminating international calls, thus, termination costs are far below those used by the Commission in establishing benchmarks in 1992. (8-9)
- Reductions in settlement rates will directly benefit consumers as they will pay lower prices for services. (9-12)
- Establishing benchmarks as guidelines will not effectively lower accounting rates. The Commission must use its prescription authority. (12-14)

Commission's Statutory Jurisdiction to Adopt Benchmarks

- Commission has ample authority under §§ 201, 205, and 211 of the Communications Act, relevant case law, and international regulations to adopt its proposals set forth in the *Notice*. (46-52)
- The Commission's actions are only binding on U.S. carriers, thus, the fact that one party to an accounting rate contract is a foreign carrier does not diminish the Commission's jurisdiction. (52-56)

Commission's Authority Under Existing International Law

- The Commission's benchmarks are fully consistent with ITU Regulations. (57)
- Regardless of the binding effect of the ITU Regulations, the U.S. has the sovereign right to regulate its telecommunications which includes the right to protect consumers against unreasonable charges and practices. (57)

Benchmark Methodology

- The Commission should combine its two suggested approaches -- using the average of the tariff component price calculated by the International Bureau or using the average of the tariff component prices of all countries in the same category -- by setting the upper end of each country's benchmark range at the lower of either that country's tariff component price or the benchmark range for the relevant category of countries. (15-17)
- The appropriate cost methodology is TSLRIC because it will encourage efficiency and prevent competitive distortions in the U.S. international telecommunications market. (21-23)
- Only the forward-looking costs of providing international termination services should be included in TSLRIC, not historic book or embedded costs. (24)

- The foreign carrier should always carry the burden of proving the nature and magnitude of its costs. (24)
- Access charges should be included in settlement costs only if they give equal treatment to all carriers and to all types of domestic and international traffic. (26-27)
- The Commission may rely on U.S. data as a surrogate for the costs of foreign country termination. (27-31)

Basing Benchmark Ranges on Economic Development Categories

- Carriers from countries that adopt or commit to competitive reform, even if they are a developing country, should not be exempted from the benchmarks. Further, the Commission should not award carriers from developing countries additional flexibility based on their low level of network development. (18)

The Use of Transition Periods

- Carriers in upper income countries should comply with the benchmarks no later than June 1, 1998; carriers in the middle category should comply by January 1, 1999; and carriers in the lower income categories should comply by January 1, 2000. (19-20)
- The only exception from these transition periods should be for temporary emergencies such as war, famine, or natural disasters. (20)

Applying Benchmarks to Prevent Anticompetitive Behavior

- Settlement rates should be set at TSLRIC prior to authorization of inbound switched services over international private lines. (34-37)
- The Commission should require foreign carriers' settlement rates to be set at cost as a condition of market entry. (40-46)

Enforcement of Benchmarks by the Commission

- In determining whether enforcement action is necessary, the Commission's primary concern should be whether the foreign carrier has adopted the interim benchmark rates and the status of negotiations to achieve that objective. (32)
- The Commission should take enforcement action following complaints filed by U.S. carriers. (32)
- The Commission should establish an expedited process to address carrier complaints. (33)

- Where a foreign carrier fails to meet the required transition rate, U.S. carriers should be directed to settle at the relevant benchmark rate. Where the foreign carrier fails to meet benchmarks, U.S. carriers should be directed to pay settlement rates below the top of the relevant benchmark range. (33)

COMMITTEE ON COMMERCE

The Rationale for Adopting Benchmarks

- The Commerce Committee expresses its strong support for the FCC in proposing to issue rules which would move settlement rates to costs. (1)
- Focus is on the consumer, and the Commerce Committee's view is that our trade deficit will decrease and consumers will benefit from lower prices associated with lowering settlement rates. (2)

Commission's Authority Under Anticipated WTO Agreement

- So long as the Commission applies conditions for entry into the U.S. market on all foreign carriers then the Commission rules will be consistent with the non-discrimination requirement of the WTO's GATS. (2)

Benchmark Methodology

- The use of several benchmark ranges is an appropriate interim step toward moving settlement rates to cost. (2)
- Settlement rates ultimately should not be greater than the actual incremental cost of completing an international call for all countries. (2)

Applying Benchmarks to Prevent Anticompetitive Behavior

- The FCC should adopt, as a condition of entry into the U.S. market, a requirement that a foreign-owned carrier settle its traffic with affiliated carriers at no lower than the settlement rate that U.S. carriers pay affiliates. (2)

The Use of Transition Periods

- Minimal transition periods should be permitted. (2)

FRONTIER CORPORATION

The Rational for Adopting Benchmarks

- Benchmarks are needed because above-cost accounting rates have depressed demand for international services and introduced other economic distortions and inefficiencies in the provision of international services. (1)

Benchmark Methodology

- The Commission's proposal to establish the upper end of the benchmark range on the basis of prices for the identified international network elements is appropriate. (2)
- Basing the lower end of the benchmark range on TSLRIC is appropriate. (2)
- Commission should establish benchmark ranges by categories of countries depending upon level of economic development. Establishing benchmarks on a country-specific basis would be administratively cumbersome. (3)

The Use of Transition Periods

- A country's economic development should dictate the time period for transitioning to the benchmark ranges. (4)

Enforcement of Benchmarks by the Commission

- The Commission should adopt its enforcement proposals set forth in the *Notice*. (4)

GTE SERVICE CORPORATION

The Rationale for Adopting Benchmarks

- GTE supports the development of competition in foreign markets and considers such competition to be the most effective means of inducing accounting rates, not benchmarks. (1)
- Lowering settlement rates will not eliminate, nor greatly reduce, U.S. settlement outpayments. (5)
- The international settlement payments imbalance is the direct result of U.S. demographics, the calling habits of U.S. consumers, the growing use of call-back service, as well as other innovations that bypass the traditional accounting rate mechanism and distort traffic flows. (5-6).

The Use of Unilateral Action

- The Commission's proposed adoption of unilaterally-imposed international benchmarks is unnecessary because market forces are reducing settlement rates.
- The Commission should focus its efforts on fostering competitive markets rather than unilaterally imposing the approach set out in the NPRM. (1)

Commission's Authority Under Existing International Law

- GTE regards the unilateral enforcement proposals in the NPRM as inconsistent with treaty obligations under the agreements constituting and governing the ITU. (1)
- The NPRM departs from U.S. policy and deviates from international practice of working through existing ITU mechanisms to promote bilateral reduction in accounting rates. (11)
- Adoption of the NPRM would undermine the bilateral nature of international telecommunications relationships, disrupt the emerging trend toward competition, eliminate the time necessary for developing countries to undertake necessary rebalancing of tariffs and thereby postpone progress toward the achievement of unusual service and access capabilities upon which the Global Information Infrastructure is predicated. (14-15)

Commission's Statutory Jurisdiction to Adopt Benchmarks

- The Commission's unilateral enforcement proposals are in excess of the jurisdiction and authority granted under the Communications Act. (I)

- Section 201(b) properly reflects the limits of U.S. jurisdiction. (A-11) The second proviso expressly permits U.S. carriers to enter into and operate under contracts with foreign carriers unless these contracts are declared contrary to public interest. (A-12)
- The Commission has only narrow authority where foreign carriers are involved. (A-12)
- The statutory provisions cited by the Commission do not confer jurisdiction to prescribe mandatory benchmarks. (A-12 to A-17) (discussing sections 1, 4(i), 201-205 and 303(r) of the Act).

Commission's Authority Under Anticipated WTO Agreement

- GBT talks are designed to liberalize trade in basic telecommunications. (28) Any agreement that emerges will include the Most Favored Nation (MFN) provision of the GATS. MFN ensures that U.S. providers entering a foreign market are not denied any advantage given to other foreign providers. (29)
- Conditioning authorization to provide facilities-based international services on the foreign affiliate offering a settlement rate within the proposed benchmark rates raises serious concerns under MFN. (30)
- Access not equally permitted to all WTO members would not be permitted under MFN. (30) Access to the U.S. market, under the NPRM, would be limited. (30)
- It remains open to question whether the proposed sanctions in the NPRM could satisfy even the criteria for anti-competitive safeguards in the current U.S. offer to the GBT. (31)
- Waivers of benchmarks for pro-competitive policies would be inconsistent with MFN. (31)
- Treating countries in different categories differently is a probable violation of MFN. (33)

Benchmark Methodology

- The FCC should use a market based approach rather than a cost based formula to assess whether settlements are reflective as a competitive market. (6)
- Using AT&T as an example, analysis shows that U.S. carriers often retain more revenue for their half of the provision of "unbalanced" international calls originating in the U.S. than are paid to foreign carriers. (7)
- On a net-settlements basis, comparison reveals that revenue retained by AT&T exceeds the net settlement paid by substantially more than the difference between the U.S. collection rate and the settlement rate for the provision of an "unbalanced" international call originating in the U.S. (7)

- Use of a benchmark process should be related to the real experience of the U.S. market. (8)
- One market-based approach to benchmarks would be to examine the relationship among U.S. collection rates, settlement rates and compensation retained by U.S. carriers over a five-year period. (8)
- Data from the U.S. market could be used to determine the differential between U.S. collection rates and settlement rates and be a factor in evaluating the reasonableness of foreign settlement rates for 1997-2001.
- Should the Commission continue to focus on cost-based accounting rates, carrier to carrier negotiations should be encouraged whereby a bilateral agreement could be reached that would result in a foreign carrier paying only the actual costs of terminating a call in the U.S. (9)
- The FCC's use of the lowest tariffed rate charged, ignores the fact that tariffed rates charged by foreign carriers for the national extension portion of their networks have not usually been rebalanced to reflect costs. (23)

The Use of Transition Periods

- The proposed two-to-four year transition periods for low and middle income countries underestimate the length of time necessary for developing countries to develop their telecommunications infrastructure and rebalance long-distance and local rates. (15)
- The Commission can not expect developing countries to lower settlement rates to benchmark ranges within two-to-four years whether the U.S. and Europe transitions took considerably longer. (16) The U.S. evolution, lasting nearly 2 decades, has involved a complex switch from monopoly to competitive principles, the gradual elimination of cross-subsidization between long-distance and local services, as well as between domestic and international services, and massive investment in additional telecommunications infrastructure. (16)
- Low income, slow economic growth, limited investment, lack of telecommunications infrastructure and dependence on settlement payments to sustain the telecommunications industry are among the reasons supporting longer transition periods for developing countries. (17)
- Transition periods should be tailored to the gap between the current settlement rate and the Commission's proposed benchmark settlement rate. (18) Lower-middle income countries are asked to make the same average reduction in settlement rates as low-income countries, thus at a minimum they should be offered the two extra years provided to low-income countries for their transition to settlement rates. (18)

- The NPRM may deter new foreign investment by imposing arbitrary and unrealistic time periods for reaching benchmarks. (19)
- If settlement payments are reduced precipitously, there may be a negative effect on U.S. based telecommunications equipment manufacturers. (19)
- Those countries committed to carefully processes and timelines for transition to competitive markets should not be subject to the FCC's benchmarks or should be provided longer transition periods. (21)

Applying Benchmarks to Prevent Anticompetitive Behavior

- The Anti-competitive conduct suggested in the NPRM, that a foreign carrier would cross-subsidize a U.S. affiliate in order to offer below-cost prices in the U.S. market is implausible because a foreign carrier has no incentive to squander its profits without being able to recover, in the form of later monopoly profits, more than the losses suffered. (24-25)
- No justification exists for the Commission to condition authorization to provide international facilities based services on the adoption of settlement rates within the benchmark ranges. (26)
- The FCC should not replace the equivalency test with its proposed condition on the resale of private lines (27). The equivalency test is a pro-competitive measure whereas the NPRM's proposed conditional access is an anti-competitive measure that will block new participants. (27)

JUSTICE TECHNOLOGY CORPORATION

The Rationale for Adopting Benchmarks

- Justice applauds the FCC's past efforts to create a level playing field for U.S. International telecommunications service providers. (1)

The Use of Unilateral Action

- Justice is concerned that the FCC's initiative to dictate lower accounting rates will threaten the survival of small, new U.S. carriers in the global telecommunications market by undermining their ability to establish correspondent relationships with foreign carriers. (1-2)
- Competition by new entrants, not unilateral action, will ultimately reduce accounting rates. (2)

The Commission's Authority Under Existing International law

- The ITU is best equipped to address multi-lateral issues such as the appropriate accounting rates between countries. (2)
- ITU regulations, binding on the U.S., call for establishment of accounting rates by mutual agreement. (2)
- Adoption of the NPRM will abrogate principles of comity and the FCC's commitment to the ITU. (2)
- The ITU, not the FCC is the appropriate forum in which to address the issue of accounting rates. (3)

MCI TELECOMMUNICATIONS CORPORATION

Commission's Authority Under Anticipated WTO Agreement

- The Commission should preserve market distortion safeguards, modified as appropriate to address obligations under any prospective multilateral agreement. (12)

Benchmark Methodology

- While the Commission works with foreign governments to obtain more accurate, country-specific information, the use of foreign tariffed rates is a reasonable way to develop interim accounting rates. (2-4)
- Averaged benchmarks should not be adopted. Country-specific benchmark rates would be more appropriate because they would be derived from pricing data uniquely applicable to the operations of individual countries. (4)
- A country's benchmark rate should represent the lower of the calculated country-specific rate-based benchmark or the applicable averaged benchmark rate for the economic category proposed by the Commission, plus twenty percent. (5)

The Use of Transition Periods

- Transition periods should be very short. The transition to benchmark rates should be completed within one year of the effective date of the order for high income countries, within two years for middle income countries, and within four years for lower income countries. (6)
- Where the applicable transition period is greater than one year, U.S. carriers should attempt to negotiate a proportional annual reduction of the spread between the current settlement rates and benchmarks. (7)
- A waiver of the transition period should be available if the carrier can demonstrate that it would be subjected to extraordinary hardship. (7)

Applying Benchmarks to Prevent Anticompetitive Behavior

- The Commission should continue to utilize the ECO test to address competitive distortion concerns. (9-11)

PACIFIC BELL COMMUNICATIONS

The Rationale for Adopting Benchmarks

- The Commission is correct in noting that U.S. international calling rates are too high. (2-3)
- Efforts to lower international calling prices will encourage the growth of competition and the efficient use of telecommunications systems. (3)
- Much of the problem with international calling prices, however, results from high collection rates rather than high settlement rates. (3)
 - Collection rates have been increasing while settlement rates have been dropping. (4-5)
- The Commission may achieve the best results for U.S. consumers by increasing competition in the U.S. IMTS market. (9)
 - Increased competition can easily be achieved by granting the RBOCs authority to provide international services. (9-10)

Commission's Statutory Authority to Adopt Benchmarks

- The Commission needs to better articulate its jurisdictional authority to set benchmarks. (6)

Commission's Authority Under Anticipated WTO Agreement

- The Commission should acknowledge that substantial uncertainty exists with respect to whether its benchmark proposal would satisfy the MFN requirement of a WTO agreement. (7)
- In order to ensure WTO compatibility, the FCC should recommend that the USTR include the benchmark proposal in the U.S. WTO offer, or reference paper. (7-8)

Benchmark Methodology

- The use of tariffed component prices may be subject to attack because they do not reflect the need to rebalance the domestic tariffs of foreign countries. Thus, TCPs may understate the actual cost of terminating international calls. (5-6)

PRIMUS TELECOMMUNICATIONS GROUP, INC.

Applying Benchmarks to Prevent Anticompetitive Behavior

- Primus requests the Commission to permit U.S. carriers to engage in International Simple Resale (ISR) on any route. (3)
- ISR is a viable alternative to international settlements framework. (3)
- Allowing ISR creates downward pressure on carriers to lower prices. (3)
- If the Commission restricts ISR to countries whose settlements fall within the benchmark range, it should not require an additional showing under the ECO test. (4)
- Primus submits that once carriers have established settlement rates within benchmark ranges, the flexibility test should be considered met, and no further regulation required. (5)
- In general, Primus argues against application of more than one regulatory layer. (6)

SBC COMMUNICATIONS, INC.

The Rationale for Adopting Benchmarks

- SBC acknowledges the “laudable” goals of the Commission, but the Commission’s methods are counterproductive. (2)
- The Commission’s conclusion that the technological forces, market forces, and competitive behavior have “render[ed] the existing benchmark ranges obsolete” is erroneous. (2-3) SBC requests the Commission to recognize the market-based incentives to lower rates. (3) Mandatory benchmarks should be a last resort. (3)
- SBC advocates forbearance when countries are making progress toward opening their telecommunications markets. (3-4)

The Use of Unilateral Action

- The use of unilateral action by the U.S. would undoubtedly be disruptive to any orderly attempts to reduce settlement rates. (6)
- The Commission’s directions to U.S. carriers may undermine the ability of U.S. carriers to continue negotiations. (6)

Commission’s Authority Under Existing International Law

- The Commission should work through the international fora to achieve lower accounting rates. (4)
- U.S. based regulatory action is likely to be poorly received by other sovereign nations. (4)
- Policies adopted through international fora represent agreement among countries, not the imposition of the economic will of a single nation. (5)

SPRINT

The Rationale for Adopting Benchmarks

- Pending the arrival of genuine international competition, the best guarantor of cost-based accounting rates, it is extremely important that the Commission take concrete steps to lower international accounting and settlement rates. (3)
- Sprint supports the Commission's proposal to establish "benchmark rates" that would place modest upper limits on the amount by which U.S. rate payers must continue to subsidize the rest of the world. (3)

Commission's Statutory Jurisdiction to Adopt Benchmarks

- Sprint acknowledges both that the Commission did not devote much discussion in either the NPRM or 1992 Benchmark Order to the issue of jurisdiction and that there may be legal challenges to the Commission's jurisdiction over U.S. carriers settlement rates. (4)
- Sprint suggests that the Commission has jurisdiction over the contracts between a U.S. carrier and a foreign carrier, including the rates established, because there would be no reason to make such contracts subject to the public interest test in § 201(b) if the Commission had no authority over them. (5-6)
- The court affirmed the Commission's power in RCA a ruling that the Commission has primary authority over U.S. carriers' practices vis-a-vis their foreign correspondents and that the Commission may exercise this authority over U.S. carriers even though it may interfere with agreements between those two carriers. (6)
- It is not necessary that the Commission have jurisdiction over the foreign carrier to have jurisdiction over settlement rates. (6)
- The Commission may order U.S. carriers to pay no more than a just and reasonable rate, to pay for termination of its traffic at an interim rate, to withhold settlement payments or grant or revoke the U.S. carrier's authority to exchange traffic. (7)
- Strong public policy reasons support the Commissions jurisdiction over international settlement rates. (7)
- If there is agreement in the pending WTO talks, it is even more important for the FCC to oversee settlement rates. (8)

Benchmark Methodology

- Sprint supports the proposal to utilize TCP as the basis for the upper limits of its benchmarks. (10)

- The Commission's assumption of 4:1 multiplexing is generally reasonable and consistent with Sprint's own experience; as well as its assumption of 8,000 minutes per line per month. (10)
- Half circuit prices are a useful means of evaluating whether the international facilities component is at cost based levels. (11)
- Sprint believes the international gateway and national extension components are problematic and urges the Commission to place the TEUREM study in the record before the deadline for reply comments. (11-12)
- Problems with the national extension component include flat rates for national service or no charge at all. (12)
- The Commissions proposed benchmarks make a strong case that existing settlement rates are too high by some large amount. (13)
- Sprint has no knowledge of foreign carriers cost, and foreign carriers have little incentive to submit such data. (14) Thus, Sprint believes the FCC will face difficulty in setting lower benchmarks and urges the FCC to direct its efforts towards upper limits. (15)
- Sprint believes the FCC should establish country specific benchmarks where possible. (15)
- It is unfair to individual countries to average data broadly under the TCP method because a particular country's geography or distance for the U.S. would appear highly relevant to its TCP. (15-16)
- Country-by-country, benchmarks would reflect unique conditions inherent in a particular country and permit more accurate and precise benchmarks. (16)
- However, Sprint recognizes that if country-specific data is available, TCP should be used. (16)

The Use of Transition Periods

- Sprint generally concurs with the Commission's proposals to phase in benchmarks as their immediate imposition may harm foreign, particularly low-income countries. (16-17)
- Sprint recognizes that the phase-in period must in some sense be arbitrary and supports a glide-path or annual review for the four or five year phase in to permit countries from using long transition periods as a justification to keep high settlement rates and then use the steep cuts required at the end of the transition period as an excuse for not reaching benchmarks. (17)